



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB1907

by Rep. Michael J. Zalewski

SYNOPSIS AS INTRODUCED:

See Index

Amends the Criminal Code of 1961. Adds the Illinois Street Gang and Racketeer Influenced and Corrupt Organizations Law (RICO) as a new Article of the Code. Provides that it is unlawful for any person: (1) who is employed by or associated with any enterprise, knowingly to conduct or participate, directly or indirectly, in such enterprise's affairs through either a pattern of predicate activity (specified criminal offenses) or the collection of unlawful debt; or (2) knowingly to acquire or maintain, directly or indirectly, through either a pattern of predicate activity or the collection of unlawful debt, any interest in, or control of, to any degree, of any enterprise, real property, or personal property of any character, including money. Establishes criminal penalties and civil remedies. Provides that any violation of the Article is subject to the remedies, procedures, and forfeiture as set forth in the money laundering statute. Amends the Code of Criminal Procedure of 1963. Permit the State's Attorney to apply to the chief judge of the circuit for an order authorizing the interception of a private communication when no party has consented to the interception and the interception may provide evidence of, or may assist in the apprehension of a person who has committed, is committing or is about to commit a violation of the RICO Article of the Criminal Code of 1961. Effective immediately.

LRB097 08651 RLC 48780 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 1961 is amended by adding
5 Article 33G as follows:

6 (720 ILCS 5/Art. 33G heading new)

7 ARTICLE 33G.

8 ILLINOIS STREET GANG AND RACKETEER INFLUENCED AND CORRUPT

9 ORGANIZATIONS LAW

10 (720 ILCS 5/33G-1 new)

11 Sec. 33G-1. Short title. This Article may be cited as the
12 Illinois Street Gang and Racketeer Influenced and Corrupt
13 Organizations Law (or "RICO").

14 (720 ILCS 5/33G-2 new)

15 Sec. 33G-2. Legislative declaration. The substantial harm
16 inflicted on the people and economy of this State by pervasive
17 violent street gangs and other forms of enterprise criminality,
18 is legitimately a matter of grave concern to the people of this
19 State who have a basic right to be protected from such criminal
20 activity and to be given adequate remedies to redress its
21 harms. Whereas the current laws of this State provide

1 inadequate remedies, procedures and punishments, the Illinois
2 General Assembly hereby gives the supplemental remedies of the
3 Illinois Street Gang and Racketeer Influenced and Corrupt
4 Organizations Law full force and effect under law for the
5 common good of this State and its people.

6 (720 ILCS 5/33G-3 new)

7 Sec. 33G-3. Definitions. As used in this Article:

8 (a) "Another state" means any State of the United States
9 (other than the State of Illinois), or the District of
10 Columbia, or the Commonwealth of Puerto Rico, or any territory
11 or possession of the United States, or any political
12 subdivision, or any department, agency, or instrumentality
13 thereof.

14 (b) "Enterprise" includes (1) any individual, sole
15 proprietorship, partnership, corporation, association,
16 business or charitable trust or other legal entity, and (2) any
17 group of individuals or other legal entities, or any
18 combination thereof, associated in fact although not itself a
19 legal entity. An association in fact must be held together by a
20 common purpose, apart from an individual purpose or purposes,
21 but it need not be hierarchically structured or otherwise
22 specially configured. As used in this Article, "enterprise"
23 includes licit and illicit enterprises, as well as the State of
24 Illinois and any political subdivision, or any department,
25 agency, or instrumentality thereof.

1 (c) "Predicate activity" means:

2 (1) any act, attempt, endeavor, solicitation, or
3 conspiracy that is punishable by imprisonment for more than
4 one year, and constitutes a violation or violations of any
5 of the following provisions of the laws of the State of
6 Illinois (as amended or revised as of the date the activity
7 occurred or, in the instance of a continuing offense, the
8 date that charges under this Article are filed in a
9 particular matter in the State of Illinois):

10 (i) under the Criminal Code of 1961: Sections 8-1
11 (solicitation), 8-1.1 (solicitation of murder), 8-1.2
12 (solicitation of murder for hire), 8-2 (conspiracy),
13 8-4 (attempt), 9-1 (first degree murder), 9-3.1
14 (concealment of homicidal death), 9-3.3 (drug-induced
15 homicide), 10-1 (kidnapping), 10-2 (aggravated
16 kidnapping), 10-3 (unlawful restraint), 10-3.1
17 (aggravated unlawful restraint), 10-4 (forcible
18 detention), 10-5 (child abduction), 10-7 (aiding and
19 abetting child abduction), 10-9 (trafficking of
20 persons, involuntary servitude, and related offenses),
21 11-6 (indecent solicitation of a child), 11-6.5
22 (indecent solicitation of an adult), 11-9.1 (sexual
23 exploitation of a child), 11-9.2 (custodial sexual
24 misconduct), 11-15.1 (soliciting for a juvenile
25 prostitute), 11-16 (pandering), 11-17.1 (keeping a
26 place of juvenile prostitution), 11-18.1 (patronizing

1 a juvenile prostitute), 11-19.1 (juvenile pimping and
2 aggravated juvenile pimping), 11-19.2 (exploitation of
3 a child), 12-2 (aggravated assault), 12-4 (aggravated
4 battery), 12-4.1 (heinous battery), 12-4.2 (aggravated
5 battery with a firearm), 12-4.2-5 (aggravated battery
6 with a machine gun or silencer-equipped firearm),
7 12-4.7 (drug-induced infliction of great bodily harm),
8 12-6 (intimidation), 12-6.1 (compelling organization
9 membership of persons), 12-6.2 (aggravated
10 intimation), 12-6.4 (criminal street gang
11 recruitment), 12-7.3 (stalking), 12-7.4 (aggravated
12 stalking), 12-7.5 (cyber-stalking), 12-9 (threatening
13 public officials), 12-11 (home invasion), 12-11.1
14 (vehicular invasion), 12-13 (criminal sexual assault),
15 12-14 (aggravated criminal sexual assault), 12-14.1
16 (predatory criminal sexual assault of a child), 12-16
17 (aggravated criminal sexual abuse), 16-16.1
18 (aggravated possession of a stolen firearm), 18-1
19 (robbery), 18-2 (armed robbery), 18-3 (vehicular
20 hijacking), 18-4 (aggravated vehicular hijacking),
21 18-5 (aggravated robbery), 19-1 (burglary), 19-2
22 (possession of burglary tools), 19-3 (residential
23 burglary), 20-1 (arson), 20-1.1 (aggravated arson),
24 20-1.2 (residential arson), 20-1.3 (place of worship
25 arson), 20-2 (possession of explosives), 20.5-5
26 (causing a catastrophe), 20.5-6 (possession of a

1 deadly substance), 24-1.2 (aggravated discharge of a
2 firearm), 24-1.2-5 (aggravated discharge of a machine
3 gun or silencer equipped firearm), 24-1.6 (aggravated
4 unlawful use of a weapon), 24-1.8 (unlawful possession
5 of a firearm by a street gang member), 24-2.2 (unlawful
6 ammunition), 24-3 (unlawful sale of firearms), 24-3.2
7 (unlawful discharge of firearm projectiles), 24-3A
8 (gunrunning), 24-5 (defacing a firearm), 26-5
9 (dog-fighting), 29B-1 (money laundering), 29D-15
10 (soliciting support for terrorism), 29D-20 (making a
11 terrorist threat), 29D-25 (falsely making a terrorist
12 threat), 29D-30 (terrorism), 29D-35 (hindering
13 prosecution of terrorism), 31A-1.2 (unauthorized
14 contraband in a penal institution), or 33A-3 (armed
15 violence).

16 (ii) under the Cannabis Control Act: Sections 5
17 (manufacture or delivery of cannabis), 5.1 (cannabis
18 trafficking), or 8 (production or possession of
19 cannabis plants).

20 (iii) under the Illinois Controlled Substances
21 Act: Sections 401 (manufacture or delivery of a
22 controlled substance), 401.1 (controlled substance
23 trafficking), 405 (calculated criminal drug
24 conspiracy), 405.1 (criminal drug conspiracy), 405.2
25 (street gang criminal drug conspiracy), or 406.1
26 (unlawful use of buildings to produce controlled

1 substances).

2 (iv) under the Methamphetamine Control and
3 Community Protection Act: Sections 15 (methamphetamine
4 manufacturing), or 55 (methamphetamine delivery); or

5 (2) any act, attempt, endeavor, solicitation, or
6 conspiracy involving murder, kidnapping, illegal gambling,
7 arson, robbery, extortion, intimidation, or dealing in a
8 controlled substance or listed chemical (as defined under
9 the laws of the United States in Title 21, United States
10 Code, Section 802), that is chargeable under the laws of
11 another state and punishable by imprisonment for more than
12 one year. Under this Article, the term "chargeable" means
13 the act, attempt or endeavor, solicitation, or conspiracy
14 constitutes an offense under the substantive criminal law
15 of another state, as such laws exist as of the date the
16 activity occurred or, in the instance of a continuing
17 offense, the date that charges under this Article are filed
18 in a particular matter in the State of Illinois, but it
19 does not include any procedural defenses under the laws of
20 another state.

21 (e) "Pattern of predicate activity" means:

22 (1) at least 2 occurrences of predicate activity
23 related to the affairs of an enterprise in the form of an
24 act, attempt, endeavor, solicitation, or conspiracy, or
25 any combination thereof; and

26 (2) at least one of which occurs after the effective

1 date of this Article, and the last of which falls within 10
2 years (excluding any period of imprisonment) after the
3 prior occurrence of predicate activity;

4 (f) "Unlawful debt" means a debt:

5 (1) incurred or contracted in the business of gambling
6 activity that was in violation of the law of the United
7 States, or the State of Illinois or another state, or any
8 political subdivision thereof, and that is unenforceable
9 under federal law, or the laws of the State of Illinois or
10 another state, in whole or in part as to principal or
11 interest, or

12 (2) that was incurred in connection with the business
13 of lending money or other things of value in violation of
14 the law of the United States, or the laws of the State of
15 Illinois or another state, or political subdivision
16 thereof at a rate usurious under federal law, or the laws
17 of the State of Illinois or another state, where the
18 usurious rate is at least twice the enforceable rate;

19 (g) "Unlawful death" includes the following offenses:
20 under the Criminal Code of 1961: Sections 9-1 (first degree
21 murder), 9-2 (second degree murder), 9-3 (voluntary
22 manslaughter and reckless homicide), or 9-3.2 (involuntary
23 manslaughter).

24 (720 ILCS 5/33G-4 new)

25 Sec. 33G-4. Prohibited activities. Under this Article:

1 (a) It is unlawful for any person:

2 (1) who is employed by or associated with any
3 enterprise, knowingly to conduct or participate, directly
4 or indirectly, in such enterprise's affairs through either
5 a pattern of predicate activity or the collection of
6 unlawful debt; or

7 (2) knowingly to acquire or maintain, directly or
8 indirectly, through either a pattern of predicate activity
9 or the collection of unlawful debt, any interest in, or
10 control of, to any degree, of any enterprise, real
11 property, or personal property of any character, including
12 money.

13 (b) It is unlawful for any person knowingly to attempt to
14 violate, or knowingly conspire to violate, this Article.
15 Notwithstanding any other provision of law, in any prosecution
16 for a conspiracy to violate this Article, no person may be
17 convicted of such conspiracy unless an overt act in furtherance
18 of such agreement is alleged and proved to have been committed
19 by him or by a coconspirator, but the commission of such overt
20 act need not itself constitute predicate activity underlying
21 the specific violation of this Article.

22 (c) The application of a remedy under this Article does not
23 preclude the application of other criminal, civil, or
24 administrative remedies under this Article or any other
25 provision of law. Any person prosecuted under this Article may
26 be convicted and sentenced either:

1 (1) for the offense of conspiring to violate this
2 Article, and for any other particular offense or offenses
3 that may be one of the objects of a conspiracy to violate
4 this Article; or

5 (2) for the offense of violating this Article, and for
6 any other particular offense or offenses that may
7 constitute predicate activity underlying a violation of
8 this Article.

9 (d) It is not a defense to any violation of this Article
10 that a defendant has been formerly prosecuted for an offense
11 based upon the same facts, within the meaning of Section 3-4 of
12 this Code, that thereafter serves as any portion of the
13 underlying predicate activity in a subsequent prosecution
14 under this Article, unless the former prosecution was
15 terminated by a final order or judgment, even if entered before
16 trial, which required a determination inconsistent with any
17 fact necessary to a conviction in the subsequent prosecution
18 under this Article.

19 (e) In any criminal prosecution under this Article, the
20 court may permit the introduction into evidence, as an
21 admission or self-incriminating verbal act by a defendant, any
22 certified court document relating to that defendant, including
23 charging instruments, judgments of conviction, or transcripts
24 of previous court proceedings underlying any prior conviction
25 of that defendant, that may otherwise constitute evidence of a
26 violation of this Article. The finder of fact may consider such

1 court documents against that defendant, but the admission of
2 the court documents shall not estop the defendant from
3 challenging, in the criminal prosecution under this Article,
4 any factual matters asserted in the court documents or any
5 inferences to be drawn therefrom.

6 (720 ILCS 5/33G-5 new)

7 Sec. 33G-5. Penalties. Under this Article, notwithstanding
8 any other provision of law:

9 (a) Any violation of subsection (a) of Section 33G-4 of
10 this Article shall be sentenced as a Class X felony with a
11 special term of imprisonment of not less than 10 years and not
12 more than 30 years, or the sentence applicable to the
13 underlying predicate activity, whichever is higher, and the
14 sentence imposed shall also include restitution, and or a
15 criminal fine, jointly and severally, up to \$250,000 or twice
16 the gross amount of any intended proceeds of the violation, if
17 any, whichever is higher.

18 (b) Any violation of subsection (b) of Section 33G-4 of
19 this Article shall be sentenced as a Class X felony with a
20 special term of imprisonment of not less than 7 years and not
21 more than 30 years, and the sentence imposed shall also include
22 restitution, and or a criminal fine, jointly and severally, up
23 to \$250,000 or twice the gross amount of any intended proceeds
24 of the violation, if any, whichever is higher.

25 (c) Wherever the unlawful death of any person or persons

1 results as a necessary or natural consequence of any violation
2 of this Article, the sentence imposed on the defendant shall
3 include an enhanced term of imprisonment of at least 25 years
4 up to natural life, in addition to any other penalty imposed by
5 the court, provided:

6 (1) the death or deaths were reasonably foreseeable to
7 the defendant to be sentenced; and

8 (2) the death or deaths occurred when such defendant
9 was otherwise engaged in the violation of this Article as a
10 whole.

11 (d) A sentence of probation, periodic imprisonment,
12 conditional discharge, impact incarceration or county impact
13 incarceration, court supervision, withheld adjudication, or
14 any pretrial diversionary sentence or suspended sentence, is
15 not authorized for a violation of this Article.

16 (720 ILCS 5/33G-6 new)

17 Sec. 33G-6. Remedial proceedings, procedures, and
18 forfeiture. Under this Article:

19 (a) The circuit court shall have jurisdiction to prevent
20 and restrain violations of this Article by issuing appropriate
21 orders, including:

22 (1) ordering any person to disgorge illicit proceeds
23 obtained by a violation of this Article or divest himself
24 or herself of any interest, direct or indirect, in any
25 enterprise or real or personal property of any character,

1 including money, obtained, directly or indirectly, by a
2 violation of this Article;

3 (2) imposing reasonable restrictions on the future
4 activities or investments of any person or enterprise,
5 including prohibiting any person or enterprise from
6 engaging in the same type of endeavor as the person or
7 enterprise engaged in, that the violated this Article; or

8 (3) ordering dissolution or reorganization of any
9 enterprise, making due provision for the rights of innocent
10 persons.

11 (b) Any violation of this Article is subject to the
12 remedies, procedures, and forfeiture as set forth in
13 subsections (f) through (s) of Section 29B-1 of this Code.

14 (720 ILCS 5/33G-7 new)

15 Sec. 33G-7. Severability. If any clause, sentence, Section
16 or provision, or part of this Article or the application
17 thereof to any person or circumstance shall be adjudged to be
18 unconstitutional, the remainder of this Article or its
19 application to any person or circumstances other than those to
20 which it is held invalid shall not be affected thereby.

21 (720 ILCS 5/33G-8 new)

22 Sec. 33G-8. Construction. In interpreting the provisions
23 of this Article, the court, because of their remedial purposes,
24 shall construe them liberally. Nothing in this Article shall

1 preclude the imposition of additional criminal penalties under
2 any provision of Federal law, or the laws of the State of
3 Illinois or another state, or any other law, or the affording
4 of any remedies in addition to those provided for in this
5 Article. In addition, the court shall construe this Article in
6 light of the provisions contained in Title IX of Public Law
7 91-452, 84 Stat. 922 (as amended in Title 18, United States
8 Code, Section 1961-1968), wherever substantially similar
9 language is used in such Title and this Article, but where such
10 language indicates an intent to depart from such Title, the
11 court shall interpret the language as herein provided.

12 (720 ILCS 5/33G-9 new)

13 Sec. 33G-9. Limitations. Under this Article,
14 notwithstanding any other provision of law, but otherwise
15 subject to the periods of exclusion from limitation as provided
16 in Section 3-7 of this Code, the following limitations apply:

17 (a) Any action, proceeding, or prosecution brought under
18 this Article must commence within 5 years of one of the
19 following dates, whichever is latest:

20 (1) the date of the commission of the last occurrence
21 of predicate activity in a pattern of such activity, in the
22 form of an act, attempt, endeavor, or solicitation,
23 underlying the alleged violation of this Article; or

24 (2) in the case of an action, proceeding, or
25 prosecution, based upon a conspiracy to violate this

1 Article, the date that the last objective of the alleged
2 conspiracy was accomplished, defeated or abandoned
3 (whichever is later); or

4 (3) the date any minor victim of the violation attains
5 the age of 18 years or the date any victim of the violation
6 subject to a legal disability thereafter gains legal
7 capacity; or

8 (4) the date that any alleged violation of this
9 Article, including injury, cause, pattern, or identity of
10 the violator or violators, was otherwise discovered in the
11 exercise of good faith.

12 (b) Any action, proceeding, or prosecution brought under
13 this Article may be commenced at any time against all
14 defendants if the conduct of any defendant, or any part of the
15 overall violation, resulted in the unlawful death of any person
16 or persons.

17 Section 10. The Code of Criminal Procedure of 1963 is
18 amended by changing Section 108B-3 as follows:

19 (725 ILCS 5/108B-3) (from Ch. 38, par. 108B-3)

20 Sec. 108B-3. Authorization for the interception of private
21 communication.

22 (a) The State's Attorney, or a person designated in writing
23 or by law to act for him and to perform his duties during his
24 absence or disability, may authorize, in writing, an ex parte

1 application to the chief judge of a court of competent
2 jurisdiction for an order authorizing the interception of a
3 private communication when no party has consented to the
4 interception and (i) the interception may provide evidence of,
5 or may assist in the apprehension of a person who has
6 committed, is committing or is about to commit, a violation of
7 Section 8-1(b) (solicitation of murder), 8-1.2 (solicitation
8 of murder for hire), 9-1 (first degree murder), 10-9
9 (involuntary servitude, involuntary sexual servitude of a
10 minor, or trafficking in persons for forced labor or services),
11 11-15.1 (soliciting for a minor engaged in prostitution), 11-16
12 (pandering), 11-17.1 (keeping a place of juvenile
13 prostitution), 11-18.1 (patronizing a minor engaged in
14 prostitution), 11-19.1 (juvenile pimping and aggravated
15 juvenile pimping), or 29B-1 (money laundering) of the Criminal
16 Code of 1961, Section 401, 401.1 (controlled substance
17 trafficking), 405, 405.1 (criminal drug conspiracy) or 407 of
18 the Illinois Controlled Substances Act or any Section of the
19 Methamphetamine Control and Community Protection Act, a
20 violation of Section 24-2.1, 24-2.2, 24-3, 24-3.1, 24-3.3,
21 24-3.4, 24-4, or 24-5 or subsection 24-1(a)(4), 24-1(a)(6),
22 24-1(a)(7), 24-1(a)(9), 24-1(a)(10), or 24-1(c) of the
23 Criminal Code of 1961, or an offense constituting predicate
24 activity under Article 33G of the Criminal Code of 1961 (RICO),
25 or conspiracy to commit money laundering or conspiracy to
26 commit first degree murder; (ii) in response to a clear and

1 present danger of imminent death or great bodily harm to
2 persons resulting from: (1) a kidnapping or the holding of a
3 hostage by force or the threat of the imminent use of force; or
4 (2) the occupation by force or the threat of the imminent use
5 of force of any premises, place, vehicle, vessel or aircraft;
6 (iii) to aid an investigation or prosecution of a civil action
7 brought under the Illinois Streetgang Terrorism Omnibus
8 Prevention Act when there is probable cause to believe the
9 interception of the private communication will provide
10 evidence that a streetgang is committing, has committed, or
11 will commit a second or subsequent gang-related offense or that
12 the interception of the private communication will aid in the
13 collection of a judgment entered under that Act; or (iv) upon
14 information and belief that a streetgang has committed, is
15 committing, or is about to commit a felony.

16 (b) The State's Attorney or a person designated in writing
17 or by law to act for the State's Attorney and to perform his or
18 her duties during his or her absence or disability, may
19 authorize, in writing, an ex parte application to the chief
20 judge of a circuit court for an order authorizing the
21 interception of a private communication when no party has
22 consented to the interception and the interception may provide
23 evidence of, or may assist in the apprehension of a person who
24 has committed, is committing or is about to commit, a violation
25 of an offense under Article 29D of the Criminal Code of 1961.

26 (b-1) Subsection (b) is inoperative on and after January 1,

1 2005.

2 (b-2) No conversations recorded or monitored pursuant to
3 subsection (b) shall be made inadmissible in a court of law by
4 virtue of subsection (b-1).

5 (c) As used in this Section, "streetgang" and
6 "gang-related" have the meanings ascribed to them in Section 10
7 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

8 (Source: P.A. 95-331, eff. 8-21-07; 96-710, eff. 1-1-10;
9 96-1464, eff. 8-20-10.)

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.

1 INDEX

2 Statutes amended in order of appearance

3 720 ILCS 5/Art. 33G

4 heading new

5 720 ILCS 5/33G-1 new

6 720 ILCS 5/33G-2 new

7 720 ILCS 5/33G-3 new

8 720 ILCS 5/33G-4 new

9 720 ILCS 5/33G-5 new

10 720 ILCS 5/33G-6 new

11 720 ILCS 5/33G-7 new

12 720 ILCS 5/33G-8 new

13 720 ILCS 5/33G-9 new

14 725 ILCS 5/108B-3 from Ch. 38, par. 108B-3